

**Effective 5/10/2016**

**77-20b-101 Entry of nonappearance -- Notice to surety -- Release of surety on failure of timely notice.**

- (1) If a defendant who has posted bail fails to appear before the appropriate court as required, the court shall within 30 days of the failure to appear issue a bench warrant that includes the original case number. The court shall also direct that the surety be given notice of the nonappearance. The clerk of the court shall:
  - (a) mail notice of nonappearance by certified mail, return receipt requested, within 30 days to the address of the surety;
  - (b) notify the surety as listed on the bail bond of the name, address, and telephone number of the prosecutor;
  - (c) deliver a copy of the notice sent under Subsection (1)(a) to the prosecutor's office at the same time notice is sent under Subsection (1)(a);
  - (d) ensure that the name, address, business email address, and telephone number of the surety or its agent as listed on the bail bond is stated on the bench warrant; and
  - (e) mail notice of the failure to appear to the bail bond agency and the surety insurer.
- (2) The prosecutor may mail notice of nonappearance by certified mail, return receipt requested, to the address of the surety as listed on the bail bond within 37 days after the date of the defendant's failure to appear.
- (3) If notice of nonappearance is not mailed to a surety as listed on the bail bond, other than the defendant, in accordance with Subsection (1) or (2), the surety and its bail bond producer are relieved of further obligation under the bail bond if the surety's current name and address or the current name and address of the bail bond agency are on the bail bond in the court's file.
- (4)
  - (a)
    - (i) If a defendant appears in court within seven days after a missed, scheduled court appearance, the court may reinstate the bail bond without further notice to the surety.
    - (ii) If the defendant, while in custody, appears on the case for which the bail bond was posted, the court may not reinstate the bail bond without the consent of the bond company.
  - (b) If a defendant fails to appear within seven days after a scheduled court appearance, the court may not reinstate the bail bond without the consent of the surety.
  - (c) If the defendant is arrested and booked into a county jail booking facility pursuant to a warrant for failure to appear on the original charges and the court is notified of the arrest, or the court recalls the warrant due to the defendant's having paid the fine and prior to entry of judgment of forfeiture, the court shall exonerate the bail bond.
  - (d) Unless the court makes a finding of good cause why the bond should not be exonerated, it shall exonerate the bail bond if:
    - (i) the surety has delivered the defendant to the county jail booking facility in the county where the original charge or charges are pending;
    - (ii) the defendant has been released on a bond secured from a subsequent surety for the original charge and the failure to appear;
    - (iii) after an arrest, the defendant has escaped from jail or has been released on the defendant's own recognizance, pursuant to a pretrial release, under a court order regulating jail capacity, or by a sheriff's release under Section 17-22-5.5;
    - (iv) the surety has transported or agreed to pay for the transportation of the defendant from a location outside of the county back to the county where the original charge is pending, and the payment is in an amount equal to government transportation expenses listed in Section 76-3-201; or

- (v) the surety demonstrates by a preponderance of the evidence that:
  - (A) at the time the surety issued the bail bond, it had made reasonable efforts to determine that the defendant was legally present in the United States;
  - (B) a reasonable person would have concluded, based on the surety's determination, that the defendant was legally present in the United States; and
  - (C) the surety has failed to bring the defendant before the court because the defendant is in federal custody or has been deported.
- (e) Under circumstances not otherwise provided for in this section, the court may exonerate the bail bond if it finds that the prosecutor has been given reasonable notice of a surety's motion and there is good cause for the bail bond to be exonerated.
- (f) If a surety's bail bond has been exonerated under this section and the surety remains liable for the cost of transportation of the defendant, the surety may take custody of the defendant for the purpose of transporting the defendant to the jurisdiction where the charge is pending.

Amended by Chapter 234, 2016 General Session